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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,695	02/25/2004	Neal Dulaney	35269US1	3686
116	7590	12/06/2004	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			VALENTI, ANDREA M	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,695

Applicant(s)

DULANEY, NEAL

Examiner

Andrea M. Valenti

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-29 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-20, drawn to a water flow system, classified in class 119, subclass 261.
- II. Claim 21, drawn to an overall assembly unit, classified in class 285, subclass 238.
- III. Claims 22-17, drawn to a valve assembly, classified in class 137, subclass 505.
- IV. Claims 28 and 29, drawn to a kit for assembly of a modular water flow system, classified in class 119, subclass 269.

Inventions I and Inventions II, III, and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II does not require a pump, nor a valve, nor does it have to be used on an aquarium instead it has separate utility such as flexible conduit for swimming pools, toilets, a child's water toy; invention III does not require the pump, nor does it have to be used with an aquarium, nor does it require both water intake and water return instead it has separate utility as a kitchen sink drain or a kitchen faucet; invention IV does not require a pump and can have a separate utility such as a garden water fountain. See MPEP § 806.05(d).

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Inventions II and Inventions I, III, and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II does not require a pump, nor a propulsive force, nor a valve, nor does it have to be used on an aquarium instead it has separate utility such as flexible conduit for swimming pools, toilets, a drain for an interior basement sump pump, or merely a child's water toy. See MPEP § 806.05(d).

Inventions III and Inventions I, II, and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III does not require a pump, nor does it require at least one connecting piece, nor does it require a propulsive force, nor does it have to be used with an aquarium, nor does it require both water intake and water return instead it has separate utility as a kitchen sink drain or as a kitchen faucet. See MPEP § 806.05(d).

Inventions IV and Inventions I, II, and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV does not require a pump; nor an interior or exterior portion with rotatable links as presented in inventions I and II, instead invention IV can have a separate utility such as a garden gravity water fountain. Invention III does not require the pump, nor does it have to be used with an aquarium, nor does it require both water intake and water

return instead it has separate utility as a kitchen sink drain or a kitchen faucet; III See MPEP § 806.05(d).

Restriction for examination purposes as indicated is proper, because these inventions are distinct for the reasons given above and the search required for:

Group I is not required for Group II, III, or IV;

Group II is not required for Group I, III, or IV;

Group III is not required for Group I, II, or IV;

Group IV is not required for Group I, II, or III

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti
Patent Examiner
Art Unit 3643

01 December 2004



Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600